# LEGAL INTELLIGENCE.

The Late Conviction for Arson UPREME COURT-GENERAL THRE Present—Hon. Judges Mitchell, Morris and Clerke.

Fan. 31.—Chos. A. Powerelly, impleaded, &c., plaintiff in error, w. the People of the State of New York, defendants in error.—This was a motion for a new trial, grounded on the following points:—

in error, whe People of the State of New York, defendonts in error.—This was a motion for a new trial, grounded on the follo ving points:—

POINT ON THE PART OF PLAINTIFY IN ERROR.

1. The objection to evidence showing the acts or conclust of the object on the reasons attack at follow 2s,
25 of the Error Beok, and
for the reasons attack at follow 2s,
between the parties indicated about he or consequence,
shown. This was the foundation for the proposed proof,
and should have been laid before it was received. (The
People vs. Parinh, 4 Denio's R. 151.)

12. The 6otton picduced by the witness Thomas ras
impropedly exhibited to the lary, and so the burning of
the string of the commission of the alilowed by the court.

3. The testimony of David Lewis and others was impropedly allowed by the Goart. This was not a see in
propedly allowed by the Goart. This was not a see in
propedly allowed by the Goart. This was not a
seen in section of the prosecution to show any
estriasic matter or cause first, allowing the prosecution
dependence. He was demant had already committed a
crime (which could be easily proved upon him, as he
had no previous intimation that such an attempt would
be made) for the purpose of warranting the conclusion
that be had committed the effence charged. As a general rule this would be most dangerous, and if improper
in any case, it was so in the peecent.

4. The motion to strike out or expunge from the case
the testimony of David Lewis and others was improperly
overruled by the Court. This evidence had been allowed
to show a motive on the part of the defendant for the
commission of the effence charged, i. e., the appropriation of property placed with him on storage, to his own
use. It dud not meet the fact, but left it to be inferred.
The conversion of the property was the prenipal point,
and that was not proved.

5. The molion to the Pourt to direct the acquittal of
the defendant, as at foll. It be often the cluster to
the direct man to the property was the prenipal point,
and that was no but the arrangement of preliminaries to the commission, or to the attempt to commit, the principal act. If this is not taken as the correct conclusion, how is it to be determined what acts are merely overt in pursuance of a compiracy, and what constitute the feconium attempt Can it be said that purchasing the camplions, and bringing it into the store of the accussed, was an overt act to pursuance of a compiracy to commit around that the opening of the barrels, and saturating the cotton with their contents, made the felonious attempt? (2 R S., [2d Ed.] pp. 570–577, §5 S. 10; 3 Id., 816 Reviews Notes). It is true the statute does not require overt acts to make a conspiracy to commit aroundidetable; but if overt acts are committed, they do not aggravate the offence. The meaning of the statute is that come crimes are so behous that for two or more persons to agree to commit them is a misdemannor. The statute defining "attempts." and there punishment, cost not militate with the views of the defendant's commel. The true construction of that statute is that the attempt or act must go to the perpetration of the very subject matter of the crime. It would be a grose misuse of language to say that the laying of the train was an attempt to fire or burn. It would be a grose misuse of language to say that the laying of the train was an attempt to fire or burn. (2 R. S. 2d ed., p. 58), sec. 3:3 do, do., p. 332, Reviters' Notes.) In indictments it is not necessary to each of the mode or manner in which the attempts are made. Where it is done, however, the altempts are made. Where it is done, however, the altempts are made. Where it is done, however, the altempt was calculated to deprive him of it.

8. The Court erred in refusing to charge the jury that there was no testimony that the attempt to fire the building was actually complete in the alternative course. So far from this, if the Court was right in its views as to what constituted an attempt to commit arson, the attempt was actually complete in the day time—by the purchas

shall be endangered by such firing, shall, upon convis-tion, be adjudged guilty of arson in the second degree." (2R S. org. ed. 606; 2R S. 4t bed. 853; 2R S. pari 4, ch. 1, title 5, art. 1, § 2.) "Every person who shall at tempt to commit an obserce probletized by law, and in such attempt shall do any act towards the commission of such offence, but shall fall in the perse ration thereof, or shall be prevented or intercepted in executing the same, upon conviction thereof shall, in cases where no provision is made by law for the punishment of such at-tempt, be punished as februs." Sct., &c.—(2R. S. orig. ed. 598; 2R S. 4th ed. 831, part 4, ch. 83, title 7. His con-viction was for an attempt at arron, second degree. The indictment wont to the jury upon counts 1, 2, 4, 9, 10, 11, 12. The writ of error brings before this court mat-ters arising from the following exceptions, in the order in which they were taken:— Exception First—(Fo. 24.)—To the decision of the court, allowing the acts and conduct of theodore L. Pa-vere'ly, co-defendant, apart from, or in the attence of the defendant, to be given in evidence against the de-fendant, until the prosecution had first examplished a connect on between them. Point First.—The court exercised a correct discretion in allowing the prosecution to give evidence of the other accter objected to, although perhaps a little out of time.

Point First.—The court exercised a correct discretion in allowing the prosecution to give evidence of the character objected to, although perhaps a little out of time.

1. The listical attorney at the time of the objection, stated how he would embesquently connect tuese acts and this conduct with the prisoner.

2. These acts and this conduct were connected—by showing Theodore to be the clerk of the prisoner, and residing with him; by showing the two arrested white in company.

2. These acts and this conduct were connected—by slowing Theodore to be the clerk of the prisoner, and residing with him; by showing the two arrested white in company.

3. The acts objected to connected themselves with the corpus delicit. The acts were purchases of complemental turpentine, and their taking apad locus delicit. At time of arrest of prisoner the place smelled of the very goods to which these acts, conduct and declarations related. The acts objected to were material acts "towards the ultimate commission of the offence," (as in language of the aforesaid statute touching attempts).

Exception Second.—To the admission of testimony (Fo. 112, 113) regarding a bot be containing control assurated with camphone; and to the property of burning the same in presence of the jury.

Font Scond.—This was evidence of some kind for the itury, serving to show (in the same manner and to the same effect as if the jurors had viewed the premises) the quality of the alleged acts toward the commission of the offence. It was competent evidence, because the bottle and the cotton came directly from the premises of prisoner, at the time of his arrest, and was undisturbed from from that period to the production before the jury. (Testimony of Wm. Thomas)

Exception Third.—To testimony showing "a motive on the part of the prisoner, for the commission of the stime charged upon him, growing out of the mis appropriation or conversion of property placed, with him on storage (Offer of District Attornsy.

Point Third.—The question for the jury being whether the prisoner made an attempt, to commission of the science consummated. Where a man is charged with setting for to a house in his own occupation the internation cannot be inferred marely from the act itself, but must be proved by giving in evidence other cleaument and early from the act itself, but must be proved by giving in evidence other cleaument and early for the prisoner to direct or convel the first itself, a thought is the form.

cee, from which the incre may tarry present it.
Archbela's Cr. Fractice and I Cassings, 480; 3 Greenleaf, 56.
Fourth Exception—To the refusal of Court to direct
or compel the Fisher'st Attorney to elect under which
counts of indictment be present the case to the Jury.
Point Fourth—I. This was in discretion of Court, and
no exception can be taken to discretion of Court, and
no exception can be taken to discretion. (Foole vs.
Paker, Elill, 159.) 2. This was not a case for election,
because the counts were introduced solely for the purpose of meeting the exception as it might transpire,
and the charges were substantially for the same offence.
(Whar, Cr. Law, pp. 152 and 153; Feople v. Kans, 8
wes. 203.) 3. Besides, the D thirt atterney did elect,
and abandoned, 6th, 6th, 7th and 8th counts.

Fifth Exception—To overraining by Court of a motion
to strike out the testimony of Pavid Lewis, (Fo. 129.) A.
E. Dubois, (Fo. 124.) and Emil Ruyer, (Fo. 125.) on the
ground that it did not appear that any demand had been
made upon the defendant for the return of the property
sileged to be missing, and that there was consequently
nothing to establish a conversion of the property by the
defendant

Foint Fifth—I. The evidence was for the jury, as to

defendant
Foint sith.—1. The evidence was for the jury, as to
moffre-there was some avidence—and the Judge correctly charged the jury about it. 2. The prosecution
contend, if the Court had cognizance of the motion, it
exercised it rightly, under the law embraced by the motion of prisoner. Prisoner was balled of the property

alleged to be converted—a balles limited to certain care. He was a storage marshant. The property should be in his place, and the fart of its unt being there is evidence of conversion. Says Basen abr. Trover, E. (and the law is unchanged to this day,) "Where the property came is unchanged to this day,) "Where the property came of the broad of the purpose for which he held it of the baller, was an actual rowersion." And in such a case so demand mescentry, (Leading case of Comman v. Hate, 23 Wend. 462.) But it is a trespose de bonts for the storage merobant to remove property in his custody, and in trespose to demand necessary. Leading case of Comman v. Hate, 23 Wend. 462.) But it is a trespose de bonts for the storage merobant to remove property in his custody, and in trespose to demand necessary. Leav passim.

Bixth Exception—To refusal of Court to direct the jury to acquit, became a the indictance alleged building 1st Front street, and there was no proof of this number. Point sixth.—I There was proof abundant that 1st Front street, front building, had been prepared for firing. 2. The rear building of a lot always carries the city lot number with it. 3. Had there been no proof, the averment was not essential descriptions but could be rejected as surplusage. (What for Law, 22.), 4. It was a question entirely for the jury, there being at least some evidence.

Seventh Exception—To refusal of court (in substance) to charge in substance that the adjoining dwellings must have had contact with the building 1st Front street, in order to bring this act within the statute.

Point Seventh.—The evidence answered the meaning of the words 'adjoining to 'I. By definition of the words. 2. By context of the aams section of statute. 3. According to tenor of decision in People vs. Gates, (15 Won., 180.).

the words' adjoining to''. I. By definition of the words. 2. By confext of the same section of statute. 3 According to tenor of decision in People vs. Gates, (15 Wea., 160.)

Eighth Exception.—(This will embrace the objections suggested by requests for charge after number one.) To the law laid down by the Court regarding "attempt to commit arson," and its views of the acts constituting an attempt. Point Fighth.—The Court were correct in their view of the law regarding "attempt," and the specific acts attaching themselves to an attempt were sole questions for the lury under the ruling of the Court. 1. The common law and the statute, regarding attempts to commit offences, carry out the civil law mixtus, quicquist criminis consummationis decis construit constitute, and explications poenam nemo patitur. The cases of King v. Higgins, 1 Fast. 5, and People v Bush, 4 Hill, 135, appear to act the the law as the Judge ruled it. In the latter case the definition of attempt was given in a case of attempt at arson, where the prisoner merely gave a match to witness, and told him to set fire to a building.

The whole question at issue Mr. Hall contended is what does the word "so" mean in the statute as to arson in the second degree. "So fire as to encharger an adjoining building," or fire a building "so adjoining as to endanger," So.

Next was the collection of combustible materials an 'attempt,'' or in order to make an attempt, must there was the collection of combustible materials an 'attempt,'' or in order to make an attempt, must there

arger," &c. Next was the collection of combustible materials an

Acat was the collection of combustible materials an "attempt," or in order to make an attempt must there be an act toward firing, as taking a match, &o.' Should the verdict be reversed the prisoner may yet be tried for attempted aroon in the third degree, or compirate, or on an indictment for larceny of the goods varchoused with him. Decision reserved.

### Sunreme Court -Consent Torm Hon Judges Mitchell, Morris and Clerke.

MOTION FOR A NEW TRIAL IN THE CASE OF WILLIAMS, CONVICTED OF POISONING HIS WIFE. Fun. 23.—The People vi. Andrew Williams.—Mesers.
Spencer and Clinton submitted the following points for the prisoner, and argued that he was entitled to a new

Spencer and Clinton submitted the following points for the prisoner, and argued that he was entitled to a new trial—

1. The Court erred in admitting in evidence the declarations of the deceased, as stated by Mary Campbell, at tel. 25, as follows:—The last Saturday before her ceath she left my house with clothing for her husband (who was a watchman on some ship in the North river), as she said; she did not reture until dive o'clock the next morning; when she came in she appeared very ill; she said she got sick on board the vessel on which her husband was; she said she had not been drinking; she said that her whole frame seemed as if it were on fire, and her heart felt awful!" This answer was elicited by the District Attoroey asking the witness to state "where the deceased said she was going on the Saturday evening previous to her death," and taken under defendant's objection and exception. The Court also erred in charging "that the jury might infer that the deceased was with her husband on the Saturday right preceding her death." This inference rester solely on these decirations of the deceased made in the absence of the prisoner. The testimony was mere hearsay, and was clearly inadmissible. In the case of Kirby vs. The State, 9 Serg., 583, it was held that evidence that the deceased, while on his way to the place where he was found murdered, and the day before he was supposed to be killed, had stated that he was going to that place, and that the defendant was going with him, was incompetent. In Zelier vs. the State (2 Habst. 220) it was held that conversation of the deceased which never came to the knowledge of the prisoner, cannot be received in evidence. The principle of these cases is too clear and well established to require a citation of for triter authorities. There was no pretence that these statements of the deceased were dying declarations, and if they had been offered as such they would have been clearly inadmissible—because they were not made in articulo more of the general production and contents o

Mr. A. Oabey Hall, Dietrict Attorney, opposed the motion, and submitted the following points on the part of

tion, and submitted the tono track in property in property in the people :—

Front 1. The Court were correct in admitting the testimony excepted to, and which testimony is found, and also in charging the jury regarding this testimony. The fact that the declaration was made, and not its truth or falsity, was in question. It accompanied an act, and was expressive of the character, motive or object—being thus, a "verbal act, indicating present purpose being thus, a "verbal act, indicating present purpose and intention"—an exception to the rule as to hearsay.

The declaration was afterward

was expressive of the character, motive or objectbelog thus, a "werbal act, indicating present purpose
and intention"—an exception to the rule as to hearsay.
(1 Green, § 199 and \$23.) The declaration was afterward
confirmed by husband's admissions.

Point 2. The Court were correct to admitting the testimony concerning the bowl and its contents. The testimony was competent and admissible to the jury, who
could give to it what effect they chose. The bowl was
traced from the prisoner Evidence of Mrs. Campbell, who
gave it to officer Lanagan; of officer Lanagan, who
gave it to be to the coroner; of the
coroner, who gave it to Dr. Uhl, who, with
Dr. McCready, made snalyzation of its contents.
Whether the bowl from which the medical gentlemen
made the tests for poison, was the bowl out of which
the prisoner led the deceased was competent and proper testimony for the jury, in connection with the test
of its contents corresponding with test of the poison
found on post mortem. The jury, by their verdict, settied the matter.

Point 3. The Court properly allowed the bond to be
read in evidence. It was called for by an objection of
the prisoner. It came before the jury not as a record,
but as a private writing, if you please, or as if it were a
private bond of the party, whose recival bound him. It
was signed by the prisoner, and had been acted upon by
him before the witness (George Kellogg, who confront
do him. Its recitals were nothing more than the evidence of Mr. Reliogy showed to be the fact. Kellogy was
Almshouse Euperintendent; he had control of these
bonds by starte: the bond recited that the prisoner
had been convicted of abunden on give Kellogy testified to this, and the prisoner's acts showed it; prisoner was, therefore, not prejudiced by the reading of the
bond. Had the bond been received without the evidence
of Kellogy, the prisoner might not have been bound by
its recitals. The fact that there had been difficulty of
any kind between prisoner might not have been bound by
its recitals. The fact

#### Opinion of Judge Green on the Power of District Justices to Commit for Contempt. PIRST DISTRICT COURT.

Before Judgu Green.
From 23 — In the Matter of the Committal of 2. Bain-bridge Smith for a Contempt of Court.—Mr Thompson, a constable, returned in writing that in pursuance of the commitment to him delivered, he, by virtue thereof, arrested Mr Smith; but while on the way to the jail he was served with a writ of habeas corpus, commanding him to bring the body of said Smith before Judge Daly, one of the Judges of the Court of Common Pleas, to do and receive what should be then and there considered, and that in accordance therewith he took the said Smith before his Honor Judge Daly, and made return in writing that he held said Smith by virtue of said committel, whereupon Judge Daly, and made return in writing that he held said Smith by virtue of said committel, whereupon Judge Daly discharged said Smith from custody. From the reports it seems the discharge was made on the ground that the Judge of this Court had no power to commit for contempt, such court of leigh a court of record. The Judge remarked that if Judge Daly was correct, there was no way in which this Court could punish witnesses for neglect or refusal to attend, or if they do attend and refuse to be sworn, he had no power to compel them to do so, or, when sworn, hey may with inpunity refuse to answer any pertinent question that might be propounded to them, and thus defeat the ends of justice alloyather; and, in fact, if this doctrine he correct, persons might come into the court room while the Court was in seasion, and, by loud task or disorderly conduct, not only interrupt for actually prevent the transaction of business, and the Court would be unterly unable to neveral E. Indigs suggest many other difficulties that might arise, but it is not necessary to do so. From examination, I have no doubt of the power of these Courts to punish for contempt, and that the learned Judge is entitlely metaken as to the law applicable to the matter in question, and will give a few reasons for such opinion. In the first place, the Revised Statutes, 2 vol., p. 288, sections 286, 287, 288, 289 and 290 provide that a justice of the peace may punish for acriminal contempt, by fine and imprisonment, persons guilty of "disorderly, contemptance or insolent behavior dorter and insolent behavior to wards such justice while engaged on the trial of a curis and contempt, by fine and imprisonment, persons guilty of "disorderly, contemptance of the fact that a Justice one of the Judges of the Court of Common Pleas, to do and receive what should be then and there considered

in the Supremo Court of this State in the custor of other dook are Raniett, Ci Hills 21, p. 2781, he bering to the show provisions of the statute says.—The power, of magistrates are smaple to repress and purath such belavior, (aluding to irrecularity and indecour a in conducting proceedings before a justice's court,) is any stage of the cause, whether proceeding from a puty, his consender a tyrebacter; and subtrapect, as well an a due regret for the proper administration of justices, imperiously demand that they should be used and order entired with a firm and steely head. Justices may at all times rely upon the constructions and areor of this Court, in the due command and vigorous sufferences of as all occasions of the conduction of the process of the firm of the proper administration of the conduction of the process of the conduction of the con

The Late Conviction of Capt. Smidth for Slave Traffic—New Trial Granted.

UNITED STATES CIRCUIT COURT.

Hon. Judge Petts pressing.

FER. 24—The Court announced that in the case of Smidth a new trial was granted on the ground set forth in the written opinion of Judge Nelson.

# United States District Court.

Before Hon. Judge Betts.

Fig. 22.—Joseph A. Crane et al. vs. The Steamboa!
Sampson.—This was a case of collision brought by the owners of the brig Iola, and tried before Judge Hall, who gave a decree in favor of the libellants, and ordered a reference to a Commissioner to compute their dama

who gave a decree in favor of the libellants, and ordered a reference to a Commissioner to compute their damages. The Commissioner reported the damages at the sum of \$2,150, to which report both parties excepted. An amended report was afterwards made, specifying the particulars of the amount, and the cast comes up now on the exceptions to the report. The claimants of the steemboat contend that no damages about he allowed, on the ground of a fravolutent attempt on the part of the libellants to charge the steemboat with amounts no way connected with the collision; that if any damages are allowed the amount should be greatly leasned; while the libellants claims that damages should have been allowed to the amount of \$4,053.73.

Held by the court that, upon the proofs, there was strong evidence that whoever conducted the repairs of the brig attempted most, unfairly to charge the steamboat with expenses, well known to them not to have arisen from the injuries. The pretence under which the attempt was covered—that the underwrite swere to pay the expenses, and that the charges were put in beyond their just value to occean the owners from their share of contribution—no way lessons the dishonesty of the transaction. That the intention or even attempt of the libellants to practice a fraud upon the clamants, does not, in law, disable them from recovering the real value of the labor and materials bestowed upon the brig in giving her the repairs she required. That the sum of \$500 be allowed for the repairs as reported by the Commissioner, one witcess having offered to make the repairs for that sum. But that it seems befuting in a court, proceeding in a good degree upon the principles of equity, to discountenance the attempt of the libellants to enforce a wrongful account against the steamboat by denying interest on that sum, until that sum become fixed by the second report of the Commissioner, filed December 4, 1854. That the demurrage must be cut down to eight days, as the ibellants have left the point upon conflicting stat

For libellants, Messes, Owen and Morton. For claim ants, Mr. Donohue.

## Common Piens. Before Hon Judge Woodraff.

SUIT FOR ALLEGED ARSAULT AND SATTERY AT THE BROADWAY THEATRE—IMPORTANT TO MANAGERS AND SPECULATORS IN TICETTS. Fan. 21 — Joseph Sagriet se Woolley, Police Officer.— This was an action for alleged assault and battery. It

will be recollected that during the month of March last Mr. Edwin Forrest was performing one of his engage. Mr. Edwin Forrest was performing one of his engage ments at the Brondway theatre, and, as usual, there was a great rush for seats, which were generally engaged three days in advance. Knowing the anxiety on the part of the public to witness the performances of the great favorite tragedian, certain persons commenced speculating in tickets, purchased a number of "reserved seats," and then sold them at night at the doors charging an exorbitent premium. This fact having been accreained by the lesses, the assistant treasurer, Mr. W. Nagle, refused to secure seats in advance to persons whom be suspected to be speculators, but he was on more than one octasion outwitted by the parties sending messengers to engage seats for Mr. So and So. The public were cautioned, by large placards, against purchasing tickets from outsiders, as they frequently sold seats for one night that were engaged for another, and this led to great confusion in the house. The defendant, who was one of the detailed police officers of the theatre, seeing the plaintiff (Mr. Sengiat) according ladies and gentlemen who were entering the house, and selling them tickets—which was expressly prohibited by order of the management—accordingly expelled the plaintiff from the vestibule of the thester an altercation ensued, and the plaintiff was taken to the police station, where Mr. Nagle, the sessitant treasurer, attended, and by his presence can tioned the action of the officer.

attended, and by his presence can tiened the action of the officer.

The plaintiff subsequently commenced a suit against Mr. Nagle and Mr. Woolley, for assault and false imprisonment, laying his damages at \$1, tolin each case. The rule against Nagle was, however abandoned, and the rule against Nagle was, however abandoned, and the rule action is brought against the officer for \$1,000 Mr. F. Byrne, on behalf of Seagrist, called one witness, who proved the simple fact that the plaintiff was forcibly expelled from the reatibule of the theatre on one night in March, 1854 when Mr. Forrast was performing one of his successful engagements. The witness knew nothing of the origin of the muss, nor the cause for the interferonce of the officer, nor did he know who the officer was. This was the whole of the plaintiff case.

Mr. Cark, (of the firm of Whiting, Clark & Bede, for the defendant, called no witness, but asked for a non-suit, which the Court immediately granted.

Before Hon, Judge Woodruff and a jury.
Fig. 2t.—Otic Allen m. Francis Jordan.—This was an action brought to recover for a bill of goods sold on the credit of the defendant, but delivered to one Wesselv

credit of the defendant, but delivered to one Wesselttine. The parties who sold were C. C. Bole & Co. The firm dissolved, and the business remained on a settle ment with the plaintiff. Dole. The question was to whom was the credit given—Wesselstyne or Jordan? The jury found a vertice for plaintiff for amount claimed. D. Mc-Mahon for plaintiff, Mr. Angus for deceadant.

Before Hon Judge Ingraham.

Fir. 22—C. C. Dole & Co. vs. Philip C. Martin.—This was an action on a promis cry note for \$100, made by defendant, and payable to one McCartney. The defence set up was that the note was made in pursuance of an agreement that it was to be of no avail or validity unless McCartney did some work in the Walton House which it was alleged was not done, and therefore the note was not valid, and that the defendants were not bome fide bolders for value. To this point the evidence was conflicting, and various legal authorities were resorted to and commented on by both parties; but the Court rendered a verdict for plaintiff for amount claimed and interest. Mr. D. McMabon for plaintiff, Jones and Lawrence for defendants.

Suppreme Court—General Term.

Suppreme Court.—General Term.

Present, Hon. Judges William Mitchell, Robert H. Morris and Themas W. Clerke.

Frs. 23.—Ordered, I. That all notes of issue hereafter to be filed with the Clerk in causes which have once been on the calendar for trial or argument, shall specify the number of the cause on the last of such calendar, and whether the cause is to be placed on the calendar of the General term, signed in term, or Circuit. Designing

must be distinctly stated to be such and shall be placed first on the Special term calcular.

2. On the Monday preceding the first day of each General term, Special term, or Circuit, the Cleric shall prepare his calcadar of causes for such term; any cause in which the note of issue shall be filed on that day or he succeeding Tuesday or Wednesday, shall be placed at the foot of the calcadars to be prepared.

3. All motions at Special or General term is relation to the reject of Commissioners for opening, altering inserving or extensing any attents or avenues shall have a great cross on the calcadar, over all other motions, and their be placed accordingly by the Cleric, and if they be not so placed by him the calcadar may, on motion, be corrected by the Court.

Marine Court.

Before Hon Judge McCarthy.
Fin 24.—In the Matter of the Alleged Contrapt of Court by the Proprietors of the Times. -This case was commend again to day, and further postponed, without any action

as to any of the parties concerned.

Before Hon. Judge McCarthy and a Jury.

ACTION FOR BAGGAGE LOST ON BOARD SHIP. Fig. 22.—Charles Endh us. Mortimer Livingston and Others.—This nation was brought by the plaintiff, as the assignee of one Miss Maria Geisenhoeffer, who came as a passenger from Havre to this city, last October, in the packet ship Havre, of which defendants are the owners. She alleges that when the vessel arrived at Quarantine, the passengers and beggage were placed on board a barge and towed up to the dock, at the foot of Chambers street, in this city, that when she arrived at the dock, she was told by some person on board the barge that she must leave her baggage until sext morning; that next morning she accordingly dot call, and demanded her trunks, but did not receive them, nor has she ever seen them since. She claims that she had two trunks, which, with their contents, were worth \$355. Her interest she assigned to plaintiff. The defendants offered evidence to show that the assignee had but one trunk, and the mate of the vessel swore that he examined the contents of it while on the passage, and that its contents were comparatively valualess. An offerer attached to the Mayor's office also testified that she complained of the loss of her box (one only the day after her arrival. Other witnesses testified to the same state of facts. The jury found a verified for plaintiff for \$180.

Fen 23.—Wm. A. Schaffer agt. Lindley M. Heffman.—This action was brought to recover some \$4400 for the packet ship Havre, of which defendants are the owners.

-This action was brought to recover some \$400 for the monthly hiring of a paro since 1852, and for damages monthly hiring of a prace since 1852, and for damages for detaining the same. The piane it was alleged was the property of one J. B. De Camara, who assigned the claim over to the plaintiff, who being a this cuit. Mr. De famara testified to the above state of facts and further that in his dealings with the defendant he acted as the agent of one Mary Wheeler. On the part of the defence testinony was introduced to show that the piane in question belonged to one Wm. Vanderbeck, who had parted with the asme to Be Camara as collateral security for the payment of a note, which has alnow been paid, and that subsequently he, Vanderbeck, removed the piane from the defendant's possession, and has ever since retained possession of the same. The testimony being contradictory, the Court rendered judgment of nonsuit.

### The Market Bank Case.

CONTINUATION OF THE INVESTIGATION—ANOTHER ADJOURNMENT.

Justice Connolly sat in the Lower Police Court at half-past three o'clock on Friday evening, for the purpose of hearing further testimony in the matter of the tate loss of funds of this institution. Ex-Judge Boobs and Mr. Clinton appeared as counsel for the bank, and Mr. Post Sackett, the accused, respectively. His Honor recorded the following

Clinton appeared as counsel for the bank, and Mr. Post Sackett, the accused, respectively. His Honor recorded the following

TESTIMONY:

Mr. Williams receiled and cross examined by Mr. Clinton—Mr. Sackett requested me at one time, by letter, to examine his cash account; the letter is dated on 23d of November, 1831; 1 did not examine his cash account as requested. Mr. Sackett's cash was never examised by me during the time he was in the bank. I have no knowledge that it was ever examised by the directors; the bank directors do appoint a committee to examine the cash after of the bank once in six months, this committee consists of three persons; the cashier was not always appointed on that committee during the time I appointed the committee, the minutes of the bank proceedings will show who were on the committee; I generally acted with that committee; I was always present with the committee at their examination, and examined the discounted notes; I do not know if they examined the discounted notes; I do not know if they examined the discounted notes; I do not know if they examined the first teller's accounts; the \$4,000 paid on account of the alleged defaleation of Sackett was paid to me in presence of Mrs. Sackett; I do not know from whose pocket it came; Mr. Delapiane was present and handed me the certificate; the \$4,000 must have come from Mrs. Sackett, because she enforced the certificate; I gave a receipt for the money. I do not know if I ever wrote a receipt for Mrs. Sackett as the stantialty to this effect: "Received from Mrs. Sackett so much money, on account of the embezziement of W Post Sackett at the Market Bank." I may have written such a receipt, that receipt was torn up; Sackett's friends may have objected to expressions in such a receipt, if I wrote one, I do not now recollect that I did write a receipt, such a feet of the such as a such a receipt, if I wrote one, I do not now mother to the same do not have a feet of the same and the epocial book; the morigage given by Sackett so the same and the p

1987. Whilette a letter to Sackett, commencing with "ratemed friend," was read here in order to show his opinion, as a director, of Sackett.]
To Ex Judge Beebe—With reference to the examining committee of the bank, it is not the practice of many to total up column after column of the account; they take the footings of the tellers; there is no necessity that I am aware of, to examine any book but the dealer's account book, in order to ascertain a detaleation by examining that book a defaleation would be found out; the \$5,000 mortgage was given on account of the emberzhement.

it then correct apparently; he had his footing then made up to see with his cash.

To Mr. Childron—If a check for \$20,000 had been recived and malad it would account for a decicient, but not for lake footing.

Waiter Haydock recalled by Mr. Chinton—I stated that I was in the bank on Monday morning after the defalcation; on that day the exchange checks were not council, the account contains money and checks: I called raisett's attention to the deficiency on the faturday previous; I was present with others when the deposit book was added up; some of it was added up on the bunday, we were at the bank about an hour and a half that day; arrectiving taller may be short without any dishonesty or design, it often cours at the Market Pank the amount may be there was \$1,000 or \$100 about since Sackett's leaving.

The receiving teller has had over \$200 too much cash since Sackett leaving.

The receiving teller has had over \$200 too much cash since Sackett lett; the paying taller was that much short; I do not recollect if Sackett account was \$500 short when he was no Philadelphus at one time; I generally footed up the cash receipts of Sackett from February, 1854, until a week after the discovery during the time I was his assistant; often knew his account was generally short in small sums, he was one time \$40 short; he was often \$6 or so short; the account was generally short in small sums, he was one time \$40 short; I looked for the micraice; that was all that was done in this case; if di not tell any one of the deficiency, during this time the entries appeared all correct; simple addition is all that is required to have the desirer account correct; John Wykoff took Sackett's place when he was abount in Philadelphia; I do not think that Wykoff was short in his account at that time I have been aposen to can the subject of my teating appeared by whom, I do not recollect by whom, I do not recollect while the sounce of the "office" is to embrace the out of town checks, had do not recollect when the deficiency in the deposit bo

checks entirely; the checks passed over to flackett were settled when passed to him; the checks came—some of them—through the exchange; if the checks which came through other banks are not returned they are paid by the Market Bank; if checks not good are received through other banks it is the duty of the first teller to return the checks to where they came from; the pass book between the first and second teller contains a daily account of the transactions between them; Sackett's checks when passed ever to him by me were entered on the pass book; his checks came in through the exchanges from the time he came into the bank; i presumed that Sackett made the checks goed, as his cash proved; this is the reason i presumed that ha made them good; during the day the money drawer of the tellers is not generally locked up; the cash for exchanges is male up in the afterneon; on the deposit book the depositor is credited with checks as cash; we may receive as much as \$100,000 in a day in checks for depositie; on the 2d of December the deposits ward \$18,000; of this sum, three fourths may have been in checks; i was not present on the Sanday after the defalcation was discovered; banks sometimes borrow specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check; we have borrow-specis from cach other, and give a check;

The further hearing of the case was adjourned at this

stage to next Wednesday afternoon at haif-past three o'clock. It is understood that the whole matter will be left in the hands of his honor the Justice, on that day.

### The Fire Department.

MEETING OF THE BOARD OF REFEESENTATIVES—AN IMPORTANT LAW FOR THE ENTIRE REGULATION OF THE FIREMEN OF NEW YORK ENDORSED.

A large meeting of the Board of Representatives was

held on Wednesday evening, in Stuyvesant Institute— Mr. John J. Tindale acting as chairman, and Mr. John S. Belcher as secretary. After the transaction of some un-important business, the law proposed by Mr. Milliken for the better regulation of the firemen of New York was taken up and discussed. A number of amendments were offered, and it was at length passed in the following

were offered, and it was at length passed in the following shape.—

1. There shall be elected by the representatives of the New York Fire Department five commissioners, at the time and in the manner hereinafter provided to be denomizated "Tre Commissioners of the New York Fire Department."

2. The eard commissioners shall be elected on the second fuseday in May, at such place and hour as the said representatives shall be elected on the second fuseday in May, at such place and hour as the said representatives shall to constitute a choice.

3. The first election for commissioners under this act shall take place on the second fuseday in May next, and within ten days after such election, the persons so elected shall in the presence of the Fresident of the New York Fire Department, draw for the term of the respective offices—say one for the term of deey-ars, one for the term of four years, one for the term of four years, one for the term of one year—and annually, thereafter, there shall be selected one commissioner, to hold his office for the term of five years.

4. In case of a vecancy in the office of either or all of the said commissioners, either by death, removal, or resignation, the said representatives shall proceed, within ten days thereafter, to fill said vecancy or vacancies; and the person or persons so elected shall hold their office only for the balance of the unexpired term.

6. In case of the refusal or neglect of either or all of

6. In case of the refusal or neglect of either or all of

therefor.

6. No person shall be eligible as such commissioner unless he shall be, at the time of such election, an exempt fireman, and shall have ceased to be a member of the New York Fire Department for at least three years migr to said election.

the New York Fire Department for at least three years pilor to said election.

7. It shall be the duty of the President and Secretary of the New York Fire Department to certify to the Common Council the names of the persons so elected commissioners.

8. The said commissioners shall mominate, and the Common Council abail appoint, a cierk, at a salary not exceeding five hundred dollars a year; and the commissioners and clerk shall take an oath to well and faithfully perform their office.

9. It shall be the duty of the said commissioners to inquire into all applications for the organisation of volunteer fire companies; and the result of such inquiry, whether in favor of or against said application, shall be certified by them, through the Chef Engineer, to the Common Council for confirmation. No volunteer for companies shall be organised unless approved by said commissioners, save as provided for hereafter, in section 12.

10. It shall be the duty of the Chief Engineer of the 10. It shall be the duty of the Chief Engineer of the Fire Department to present to said commissioners the names of all persons applying to be volunteer fremen, and of all persons expelled or resigned from the depart-ment and on the same being duly lovestigated and determined by them, they shall certify the result of their action to the Chief Engineer, who shall thereupon return the same to the Common Counsel for their ap-

proval.

11. The said commissioners shall have cognizance of 11. The said commissioners risis have cognisance of all complaints against volunteer firemen for riotous or discreterly conduct at fires, or alarms of fire, or for visitation of any of the Stale or city laws respecting the firemen of the city of New York, they shall diligently inquire into the same, and if the parties so charged shall be proved guilty, the said commissioners are here by empowered to suspend or remove such firemen, subject to the approval of the Common Council.

12. Should any disagreement arise between the Com-

by empowered to suspend or remove such firemen, subject to the approval of the Common Council.

12. Should any disagreement arise between the Common Council and the said commissioners, in regain to any decision of the latter, under the ninth, tenth and eleventh rections of this act, the same shall be referred back to the commissioners for reconsideration; and should the said commissioners refuse to recede therefrom, or reconsider the same, then their action shall be final, unless the Common Council, by a vote of three-fourths of all the members elected to each board, shall, with thirty days after the said action shall be certified, overrule such decision.

13. The said commissioners may make such rules and regulations as may be necessary for the performance of their duties, not inconsistent with the laws of the city or State of New York, or of the United diales.

14. The chairman of said commissioners madmints ter oaths and affirmations to witnesses to testiff in respect to any matters pending before the commissioners; and should such witness or witnesses, after being duly notified, refused to attend, the commissioners may apply to one of the Justices of the Supreme Court, and upon proper proof bring made of the service of notice, the said Justices of such witness or witnesses.

itnesses.
15. False swearing before said commissioners shall be

witnesses.

1b. False swearing before said commissioners shall be deemed perjury, and punishable as such.

1c. The formon Council shall design a badge in addition to the freezon new in me, one of which shall be worn by every fremen when on duty, and every exempticeman when on duty, who shall have a evilual pass such ordinances as may be requisite to prevent the approach of persons other than firemen or policemen to the vicality of fires.

1. Any person who shall falsely represent any of the members of the Fire Department of the city of New York, or who shall malledously, with latent to decive, use or imitate any of the signs, fire-caps, badges, signals, or devices adopted or used by the Fire Department, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less taan venty fire dullers, or more than two hundred and fity dellars, and by imprisonment for a term of not less than ten days, or more than three members and all such money collected shall be paid over to the funds of the Fire Department.

18. The term "Volunteer Firement" shall be understood as applying to all persons who now are, or may hereafter become, members of the Fire Department of the city of New York, as at present organized under the laws of the First, and of said city.

19. All laws, or parts of laws, inconsistent with the provisions of this set, are hereby repealed.

20. This act shall take effect on the second Tuesday in May next.

On motion, the above law was declared unanimously

On motion, the above law was declared unanimously scopted by the Board.

Mr Milliam offered the following —

Mr. Millians offered the following —
Resolved. That should application be made to the
Lagislature for the passage of a law providing for a
change in the government of the New York Wire Department, having for its object any other method than that
contained in the act now and bereafter approved by this
body, that the officers of this meeting be, and they
hereby are directed to respectfully remonstrate, in he
half of this body, against the passage of such law.

After determining to send the proposed law to the Legislature for adoption, the Board proceeded to trans act some purely local business. They did not adjourn untit a late hour.

Carried.

During the evening, the Board took a recess for a few minutes, to inspect a heautiful service of plate, valued at \$7,000, which is to be presented to Mr. John Coger, Jun., a former President of the Board of Trustees. The service consists of five places, via. -A large salver, a teaper, a coffee pot, slop basin, sugar basin and cream The following is the inecription on the salver --

...... JOHN CORER, JUN., KRQ.,
by the
As a token of their regard and esteem for his
long and faithful services.
COMMITTER OF REFERENCE.
With D. Wade. Dan'l Stanbury, David Milliam,
Chas. Macloughl, John J. Tindale.
COMMITTER OF RESERVE.
Zejher Mills. James Kelly, James Prior.
FEMERARY, 1805. JOHN CORER, JUN., ESQ., \*

Thirteenth Anti-Slavery Locture. The Rev. Tamopona Pana delivered the thirteentie anti clavery lecture Tuesday aroning, at the Broadway mocratic Institutions of America, and its influence there on " The building was crowded, and a large portion of the audience was composed of ladies. At half past the audience was composed of ladies. At half past seven o'clock the lecturer was introduced by Mr. Other than the usual demonstra-

seven o'clock the lecturer was introduced by Mr. Other Johnson, and was received with the usual demonstrations of applause. He spoke substantially as follows:

African clavery, said he, went to Virginia in 1030, the same year that Puritaniam went to New England. What diverse influences were created by these two elements:

At first slavery was not in contradiction with the laws of the time, for it was generally acknowledged and practised. Through several centuries white slaves were half in England up to 1788, when several hundred men were kidnapped in Abstdeen, in Scotland, and afterwards sold late slavery. The opposition to it, by which Masseshuinto slavery. The opposition to it, by which Massachu-actts was distinguished, was owing to the religious principles which had been established there by the Pu-ritans. As the idea of freedom, continued the lecturer, tends to a democracy, so the idea of slavery tents to the establishment of a despotism. These are the two iceas, and you see they are perfectly irreconcilable—
they are exactly opposite, and the nation that has thus two ideas, in its coasciounness has a contradiction. The two cannot walk together; they can never agrees either as to the place they go to, or the roads they will travel, because one leads to democracy and the other to despotism. Now, there is not anywhere in the United States a complete democracy and the other to despotism. Now, there is not anywhere a few and states and the contradiction of the season of

Opening Eleventh Avenue.

The Committee on Roads of the Board of Councilmen, consisting of Councilmen Webber, Ridder, Jenkins, Was dell and Haswell, met in the chamber of the Board of

Councilmen on Wednesday evening, for the purpose of hearing objections to the opening of the Eleventh avenue from Fifty ninth to 107th street.

Rich's L. Schooling first addressed the committee; he said that the measure, with but few exceptions, was opposed by the overers of land; that the expense of the council of the said that the expense of the council of the said that the expense of the council of the said that the expense of the council of the said that the expense of th opening would be, as appeared from the commissioner's report, about \$90,000, out of this sum, gentlemes who were awarded and assessed to about the sum of \$79,000, had eigned a paper objecting to the opening of the avenue at this period, that these persons were respectable and altinguished citizens, and would not have opposed the measure if it was a necessary improvement.

Mr. Gazart is Survaya, fr., and over a proposed a comma of leve the owners of several large satisfyments of the avenue at this period day remature and unnocessary, it was not required by the opening of the avenue at this period was promuters and unnocessary, it was not required by the necessities of the citizens, either for convanience of travel or for improving the health of the city, and was not politioned for by the property owners, that the Biocomingdie road, which ran in a diagonal line across the Island from the Pilih to the Elevatin avenue, afforded amplements of communication for travel to all persons, and that the region through which the proposed avenue passed was noted for its health, and therefore for neither of these purposes of convenience or health was it required. But the land over which this avenue passed was very uneven, and would subject to owner to the payment of incaintiable and successive to the payment of incaintiable and successive to the payment of incaintiable and successive for many stars, that the matter was got up and projected by a few persons who desired or expected to make money cut of it, and they amuggled it through the Common Council without the how ledge of the real particle in interval, that the first intelligence received by the course was in May last, when they were notified to appear before the Commissioners, and they immediately provide the formation, and on the Alaberman for a religious craft of the ordinance, and on the Alaberman for a religious craft of the craimand, and on the Alaberman for a religious craft of the craimand, and on the Alaberman for a religious craft of the craimand, and on the Alaberman for a religious craft of the craimand, and on the Alaberman for a religious craft of the craimand, and on the Alaberman for a religious craft of the craimand, and on the Alaberman for a religious craft of the craimand of the property of the confirmation of the land discrete day and the confirmation of the land of the craiman craft of the property to great the common